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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/970,161	10/02/2001	Steven Wahlbin	5053-46912	9581
35690	7590	02/06/2009		
MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C. P.O. BOX 398 AUSTIN, TX 78767-0398			EXAMINER	
			GOTTSCHALK, MARTIN A	
		ART UNIT	PAPER NUMBER	
		3696		
		MAIL DATE	DELIVERY MODE	
		02/06/2009	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
09970161	10/2/2001	WAHLBIN ET AL.	5053-46912
EXAMINER			
MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C. P.O. BOX 398 AUSTIN, TX 78767-0398			MARTIN A. GOTTSCHALK
ART UNIT			PAPER
3696			20090202

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Commissioner for Patents

In the Examiner's Answer mailed 12/09/2008, it was determined that 3 corrections needed to be made (see communication from Mr. Tyree, 01/23/2009).

a) In section 9, the new grounds of rejection need to be highlighted more prominently. Thus on page 6 of the Examiner's Answer, prior to the claim rejections under section 101, the following phrase in bold, and centered, should be inserted:

NEW GROUND(S) OF REJECTION

b) In addition, the Examiner's Answer failed to include the following section heading and paragraph:

11) Related Proceedings Appendix.

No decision rendered by a court or the board is identified by the examiner in the Related Appeals and interferences section of this examiner's answer.

This heading and paragraph immediately follows the text included under section 10) Response to Argument,

c) Finally, the following paragraphs should be inserted prior to the signatures:

This examiner's answer contains a new ground of rejection set forth in section (9) above. Accordingly, appellant must within TWO MONTHS from the date of this answer exercise one of the following two options to avoid sua sponte dismissal of the appeal as to the claims subject to the new ground of rejection:

(1) Reopen prosecution. Request that prosecution be reopened before the primary examiner by filing a reply under 37 CFR 1.111 with or without amendment, affidavit or other evidence. Any amendment, affidavit or other evidence must be relevant to the new grounds of rejection. A request that complies with 37 CFR 41.39(b)(1) will be entered and considered. Any request that prosecution be reopened will be treated as a request to withdraw the appeal.

(2) Maintain appeal. Request that the appeal be maintained by filing a reply brief as set forth in 37 CFR 41.41. Such a reply brief must address each new ground of rejection as set forth in 37 CFR 41.37(c)(1)(vii) and should be in compliance with the other requirements of 37 CFR 41.37(c). If a reply brief filed pursuant to 37 CFR 41.39(b)(2) is accompanied by any amendment, affidavit or other evidence, it shall be treated as a request that prosecution be reopened before the primary examiner under 37 CFR 41.39(b)(1).

Extensions of time under 37 CFR 1.136(a) are not applicable to the TWO MONTH time period set forth above. See 37 CFR 1.136(b) for extensions of time to reply for patent applications and 37 CFR 1.550(c) for extensions of time to reply for ex parte reexamination proceedings.

In conclusion, as a result of this communication, the above three corrections should be considered as incorporated into the Examiner's Answer.

/THOMAS A DIXON/
Supervisory Patent Examiner, Art Unit 3696

/Martin A. Gottschalk/
Examiner, Art Unit 3696